

## Assembly Bill No. 2963

### CHAPTER 757

An act to amend Section 17052.6 of the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor September 20, 2002. Filed  
with Secretary of State September 21, 2002.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2963, Aroner. Income taxes: dependent care.

The Personal Income Tax Law, in modified conformity to federal income tax law, authorizes a refundable credit for household and dependent care expenses necessary for gainful employment, as provided. The credit is allowed only if the taxpayer furnishes more than one-half of the cost of maintaining a household that includes a qualifying individual.

This bill would expand the credit by providing that a child of parents who never married each other is a qualifying individual, if specified requirements are met.

The Tax Relief and Refund Account in the General Fund is continuously appropriated to make all payments required to be made to taxpayers or other persons, as specified.

By authorizing an increase in a refundable income tax credit to be paid from that account, this bill would make an appropriation.

This bill would incorporate additional changes in Section 17052.6 of the Revenue and Taxation Code, proposed by SB 1724, to become operative only if SB 1724 and this bill are both chaptered and become effective on or before January 1, 2003, and this bill is chaptered last.

This bill would declare that it is to take effect immediately as a tax levy.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 17052.6 of the Revenue and Taxation Code is amended to read:

17052.6. (a) For each taxable year beginning on or after January 1, 2000, there shall be allowed as a credit against the "net tax" (as defined in Section 17039) an amount determined in accordance with Section 21 of the Internal Revenue Code, except that the amount of the credit shall



be a percentage, as provided in subdivision (b), of the allowable federal credit without taking into account whether there is a federal tax liability.

(b) For the purposes of subdivision (a), the percentage of the allowable federal credit shall be determined as follows:

If the California adjusted gross income is:	The percentage of credit is:
\$40,000 or less . . . . .	63%
Over \$40,000 but not over \$70,000 . . . . .	53%
Over \$70,000 but not over \$100,000 . . . . .	42%
Over \$100,000 . . . . .	0%

(c) In the case of a taxpayer whose credits provided under this section exceed the taxpayer's tax liability computed under this part, the excess shall be credited against other amounts due, if any, from the taxpayer and the balance, if any, shall be paid from the Tax Relief and Refund Account and refunded to the taxpayer.

(d) For purposes of this section, California adjusted gross income means California adjusted gross income as computed for purposes of Section 17041.

(e) The credit authorized by this section shall be limited to those taxpayers who, during the taxable year, maintain a household, within the meaning of Section 21(e)(1) of the Internal Revenue Code, that is located within this state.

(f) For purposes of this section, Section 21(b)(1) of the Internal Revenue Code, relating to a qualifying individual, is modified to additionally provide that a child (as defined in Section 151(c)(3) of the Internal Revenue Code) shall be treated, for purposes of Section 152 of the Internal Revenue Code (as applicable for purposes of this section), as receiving over one-half of his or her support during the calendar year from the parent having custody for a greater portion of the calendar year, that parent shall be treated as a "custodial parent" (within the meaning of Section 152(e) of the Internal Revenue Code, as applicable for purposes of this section), and the child shall be treated as a qualifying individual under Section 21(b)(1) of the Internal Revenue Code, as applicable for purposes of this section, if both of the following apply:

(1) The child receives over one-half of his or her support during the calendar year from his or her parents who never married each other and who lived apart at all times during the last six months of the calendar year.

(2) The child is in the custody of one or both of his or her parents for more than one-half of the calendar year.

(g) The amendments to this section made by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 2002.

SEC. 1.5. Section 17052.6 of the Revenue and Taxation Code is amended to read:

17052.6. (a) For each taxable year beginning on or after January 1, 2000, there shall be allowed as a credit against the “net tax” (as defined in Section 17039) an amount determined in accordance with Section 21 of the Internal Revenue Code, as modified by the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16), except that the amount of the credit shall be a percentage, as provided in subdivision (b) of the allowable federal credit without taking into account whether there is a federal tax liability.

(b) For the purposes of subdivision (a), the percentage of the allowable federal credit shall be determined as follows:

(1) For taxable years beginning before January 1, 2003:

If the California adjusted gross income is:	The percentage of credit is:
\$40,000 or less . . . . .	63%
Over \$40,000 but not over \$70,000 . . . . .	53%
Over \$70,000 but not over \$100,000 . . . . .	42%
Over \$100,000 . . . . .	0%

(2) For taxable years beginning on or after January 1, 2003:

If the California adjusted gross income is:	The percentage of credit is:
\$40,000 or less . . . . .	50%
Over \$40,000 but not over \$70,000 . . . . .	43%
Over \$70,000 but not over \$100,000 . . . . .	34%
Over \$100,000 . . . . .	0%

(c) In the case of a taxpayer whose credits provided under this section exceed the taxpayer’s tax liability computed under this part, the excess shall be credited against other amounts due, if any, from the taxpayer and the balance, if any, shall be paid from the Tax Relief and Refund Account and refunded to the taxpayer.

(d) For purposes of this section, California adjusted gross income means California adjusted gross income as computed for purposes of Section 17041.



(e) The credit authorized by this section shall be limited to those taxpayers who, during the taxable year, maintain a household, within the meaning of Section 21(e)(1) of the Internal Revenue Code, that is located within this state.

(f) For purposes of this section, Section 21(b)(1) of the Internal Revenue Code, relating to a qualifying individual, is modified to additionally provide that a child (as defined in Section 151(c)(3) of the Internal Revenue Code) shall be treated, for purposes of Section 152 of the Internal Revenue Code (as applicable for purposes of this section), as receiving over one-half of his or her support during the calendar year from the parent having custody for a greater portion of the calendar year, that parent shall be treated as a “custodial parent” (within the meaning of Section 152(e) of the Internal Revenue Code, as applicable for purposes of this section), and the child shall be treated as a qualifying individual under Section 21(b)(1) of the Internal Revenue Code, as applicable for purposes of this section, if both of the following apply:

(1) The child receives over one-half of his or her support during the calendar year from his or her parents who never married each other and who live apart at all times during the last six months of the calendar year.

(2) The child is in the custody of one or both of his or her parents for more than one-half of the calendar year.

(g) The amendments to this section made by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 2002.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 17052.6 of the Revenue and Taxation Code proposed by both this bill and SB 1724. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2003, (2) each bill amends Section 17052.6 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 1724, in which case Section 1 of this bill shall not become operative.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

